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FISCAL IMPACT STATEMENT

LS 6127 | **NOTE PREPARED:** Nov 28, 2012
BILL NUMBER: SB 107 | **BILL AMENDED:**

SUBJECT: Media Production Expenditure Tax Credit.

FIRST AUTHOR: Sen. Randolph | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: <u>X</u> **GENERAL** | **IMPACT:** State
DEDICATED
FEDERAL

<u>Summary of Legislation:</u> This bill reestablishes the Media Production Expenditure Tax Credit (which expired in 2012), with certain changes.

This bill provides a refundable tax credit to taxpayers that make qualified production expenditures in Indiana. The bill provides that the tax credit may be granted only if the qualified production expenditures are at least $50,000 regardless of the type of qualified media production project. The tax credit is derived as follows:

(1) If the total qualified production expenditures are less than $6 M:
- The credit equals 35% of the qualified production expenditures, or;
- The credit equals 40% of the qualified production expenditures, if the taxpayer paid the expenditures to an individual or entity located in an economically distressed municipality or county.

(2) If the total qualified production expenditures are greater than $6 M, the taxpayer must submit an application to the Indiana Economic Development Corporation (IEDC) before incurring or making the qualified production expenditures. The IEDC must determine the credit amount which may not exceed 15% of the total qualified production expenditures.

The bill provides that the maximum amount of Media Production Expenditure Tax Credits allowed during a state fiscal year for all taxpayers is $2.5 M. It also provides that no new credits may be awarded for taxable years after December 31, 2016.

<u>Effective Date:</u> January 1, 2014.

Explanation of State Expenditures: *Department of State Revenue (DOR):* The DOR will be required to modify the appropriate tax forms, instructions, and computer software to implement the provisions within the bill. The DOR should be able to make the changes with their current level of resources.

Indiana Economic Development Corporation: The IEDC will be required to develop an application and authorization process for the Media Production Expenditure Credit. The IEDC should be able to implement the provisions with their current level of resources.

Explanation of State Revenues: *Summary* - The bill limits the annual loss of revenue from this tax credit to $2.5 M per fiscal year beginning in FY 2014. However, the historical claims of the prior Media Production Expenditure Credit that expired at the end of 2011 suggest that the decrease in revenue could be less than the annual cap. Prior credit claims suggest that the proposed credit could decrease state revenue by an estimated $240,000 per fiscal year beginning in FY 2015.

The credit is refundable and can be used to offset tax liabilities for Individual Adjusted Gross Income (AGI), Corporate AGI, Financial Institutions, and Insurance Premiums Taxes. Revenue collected from those taxes is deposited in the state General Fund. The revenue to the state General Fund would be reduced by the amount of the credits. The bill provides that the tax credit will expire after December 31, 2016.

Background Information - The prior Media Production Expenditure Credit was effective beginning in tax year 2007 and expired at the end of 2011. The prior credit had elements similar to the Media Production Expenditure Credit proposed in this bill. Both credits are designed to encourage additional spending by the media production industry. Both credits are refundable and both credits could be used to offset tax liabilities for the same taxes. The credits share the same definition of a qualified media expenditure and both credits exclude television news and athletic event coverage and any media production that is obscene. The credits differ in three areas: (1) the approval process; (2) the minimum qualifying expenditures; and (3) the award percentage.

The bill provides a different approval process for the proposed Media Production Expenditure Credit. Under the prior credit, all taxpayers had to submit an application to the IEDC before incurring any qualified production expenses to be eligible for the credit. Under the proposed credit, the taxpayer is only required to submit an application to the IEDC if the total qualified production expenditures will be above $6 M.

The prior credit had two qualifying project thresholds, $50,000 and $100,000. The $50,000 threshold was the minimum amount of expenditures for digital media productions, audio recordings, music videos, television or radio advertising, and training or external communication productions. Meanwhile, at least $100,000 in expenditures was required for feature films, studio productions, documentaries, and television shows. Under the proposed credit, the minimum level of qualified expenditures is $50,000, and it applies to all types of qualified media production projects.

The prior credit had two different award structures. If the total qualified expenditures were less than $6 M, the credit equaled 15% of the qualified expenditures. When the expenditures were over $6 M, the IEDC could grant a credit of up to 15% of the qualified expenditures. The proposed credit has three award percentages. The credit is 35% of the qualified expenditures if the total expenditures are less $6 M. If the total project expenditures are less than $6 M and the expenditures are paid to an entity within an economically distressed region, the credit equals 40% of the qualified expenditures. If the total expenditures are at least $6 M, the IEDC may grant a maximum credit of up to 15% of the qualified project expenditures.

The revenue estimate is based on the credits claimed under the prior Media Production Expenditure Credit in tax year 2008 totaling $90,106. Assuming the 15% credit award percentage under the prior credit, the imputed media expenditures in 2008 totaled approximately $600,000. Using the maximum credit award percentage of the proposed credit equal to 40%, the credit amount revenue loss on $600,000 in media production expenditures would be $240,000. The proposed credit may experience greater utilization and result in a larger revenue loss than estimated because of its lower qualifying expenditure threshold and greater credit award percentage.

When the prior Media Expenditure Production Credit was effective between tax years 2008 and 2011, the credits claimed over this period totaled approximately $170,000.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue; Indiana Economic Development Corporation.

Local Agencies Affected:

Information Sources: ; LSA Income Tax Database; LSA Indiana Income Tax Credit Study, *Media Production Expenditure Credit*, Sept. 2012; Indiana Film Commission: http://film.in.gov

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